



UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RICARDO MURILLO,

Defendant.

No. 2:98-CR-0347-JLQ

ORDER FOR FILING OF
STATEMENT(S) OF MATERIAL
DISPUTED FACTS FOR
EVIDENTIARY HEARING

The court has reviewed the Supplemental Briefs filed by the Defendant (C.R. 249) and the Government (C.R. 250 & 251) on the Defendant's Motion To Vacate, Set Aside, Or Correct his sentence. These Supplements were filed subsequent to the depositions of former defense counsel from the Federal Defenders office and that of the Investigator therefrom assigned to this matter.

The court is prepared to set oral argument in this matter if there are no disputed issues of material facts that would require an evidentiary hearing, as opposed to legal issues. From a review of the pleadings in this matter it appears that the issues herein do not arise from disputed facts concerning the knowledge and actions of the Federal Defenders, but rather, the issues for the court are whether those actions, or the lack thereof, constituted ineffective assistance of counsel to this Defendant. However, before setting this matter for oral argument, the court will afford counsel the opportunity to file a Statement Of Disputed Issues of Material Fact which counsel feel would require an evidentiary hearing and the presence of the Defendant. Such a Statement, if any, shall

1 include, *seriatim*, the claimed issue of material fact, the name of each witness to such
2 fact, a statement of the proposed testimony of each such witness, and a reference to that
3 portion of the record setting forth such alleged issue of material fact.

4 The Defendant shall serve and file his Statement Of Disputed Issues Of Material
5 Fact on or before the 23rd day of June, 2006. Counsel for the Government shall respond
6 thereto on or before the 7th day of July, 2006. The court will then set oral argument on
7 the issue of an evidentiary hearing, if any.

8 If counsel for the Defendant does not file a Statement of Disputed Issues Of
9 Material Fact, or if counsel for the Defendant notifies the court that no such issues of
10 material fact exist, as opposed to legal issues, the court will proceed to set argument on
11 the Defendant's 28 U.S.C. § 2255 Motion.

12 The Clerk of this court shall enter this Order and forward copies to counsel.

13 **DATED** this 30th day of May 2006.

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15 s/ Justin L. Quackenbush
16 JUSTIN L. QUACKENBUSH
17 SENIOR UNITED STATES DISTRICT JUDGE
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